STATE OF MINNESOTA
IN COURT OF APPEALS
A21-0250

In re the Marriage of: Maureen A. Chevalier,
Respondent,

vs.

Mark K. Thomas,
Appellant.

Filed November 15, 2021
Reversed and remanded
Florey, Judge

Ramsey County District Court
File No. 62-FA-14-2855

Susan M. Gallagher, Gallagher Law Office, L.C.C., Eagan, Minnesota (for respondent)

Michael P. Boulette, O. Joseph Balthazor, Jr., Yuka Shiotani, Taft, Stettinius & Hollister, L.L.P., Minneapolis, Minnesota (for appellant)

Considered and decided by Worke, Presiding Judge; Florey, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

FLOREY, Judge

In this spousal-maintenance dispute, appellant argues that the district court erred by relying on a provision in the parties' stipulated judgment and decree to deny appellant's motion to deny a cost-of-living adjustment (COLA). Because the district court misinterpreted and improperly relied on an inapplicable provision, we reverse and remand.

FACTS

Appellant and respondent divorced by Stipulated Findings of Fact, Conclusions of Law, Order for Judgment and Judgment and Decree ("stipulated judgment and decree") on March 29, 2016. Although appellant's income was higher, spousal maintenance was established based on appellant's income measured at $650,000 in accordance with the parties' agreement. Appellant paid respondent spousal maintenance of $19,500 per month until March 2018, when respondent applied for a COLA. Appellant did not oppose the request, and his spousal-maintenance obligation automatically increased to $20,260.50 per month in April 2018.

Respondent sought another COLA in 2020. In response, appellant filed a motion with the district court requesting that the COLA be denied, arguing that his income has consistently decreased since 2017, and will continue to decrease as he is not working at capacity due to the COVID pandemic. In support of his motion, appellant provided his 2017-2019 tax returns, a May 2020 paystub showing a gross monthly income of $50,953.15, and a letter from the Chair of the Orthopedics Department of Park Nicollet Clinic stating that appellant's compensation would be reduced by 30% on May 1, 2020. According to appellant's federal income taxes, his gross income was $1,168,296 in 2017, $1,072,938 in 2018, and $1,064,475 in 2019. Appellant predicted that his gross annual income for 2020 would be $914,475.

The district court determined that the parties agreed any reduction in appellant's income would be measured against his income at $650,000 based on the stipulated judgment and decree. Without making specific findings as to appellant's income, the

district court found that appellant failed to meet his burden establishing an insufficient increase in income and increased his monthly maintenance obligations to $21,152. The district court reasoned that appellant's projected income of $914,475 was above $650,000 and that, even if appellant's monthly income remained consistent with the May 2020 pay stub, his gross annual income of $764,548 would still be above $650,000.

Appellant moved for amended findings, challenging the district court's finding that the parties agreed that "any reduction in [appellant's] income in the future shall be measured from $650,000." Appellant argued that the parties' agreement to use a baseline income of $650,000 was specifically limited to future motions to modify the maintenance and was not applicable to respondent's request for a COLA. The district court denied appellant's motion for amended findings.

This appeal follows.

DECISION

The issue here is whether the terms within the spousal-maintenance provision of the stipulated judgment and decree properly apply to a contested COLA.

Generally, the terms of a stipulated-dissolution judgment are construed using contract-law principles. *In re Estate of* Rock, 612 N.W.2d 891, 894 (Minn. App. 2000). When the language of such a judgment is reasonably subject to more than one interpretation, it is ambiguous. *Id.* Whether a dissolution judgment is ambiguous presents a question of law, which we review de novo. *Tarlan v. Sorensen*, 702 N.W.2d 915, 919 (Minn. App. 2005). Resolution of any ambiguity is a question of fact, reviewed for clear error. *Id.*

Stipulated judgments are "accorded the sanctity of binding contracts" and are therefore construed using the ordinary rules of contract interpretation. *Ertl v. Ertl*, 871 N.W.2d 410, 415 (Minn. App. 2015). We review the language of a contract to determine the intent of the parties. *Ertl*, 871 N.W.2d at 415. When the "language employed by the parties is plain and unambiguous there is no room for construction," and we construe it according to its plain meaning. *Starr v. Starr*, 251 N.W.2d 341, 342 (Minn. 1977). A writing is ambiguous if, judged by its language alone and without resort to parol evidence, "it is reasonably susceptible to more than one interpretation." *Ertl*, 871 N.W.2d at 415.

In Minnesota, spousal-maintenance obligations are subject to biennial COLAs based on the Consumer Price Index to preserve the value of the maintenance award at the time it was set by adjusting for inflation. Minn. Stat. § 518A.75, subd. 1(a) (2020); *McClenahan v. Warner*, 461 N.W.2d 509, 510 (Minn. App. 1990). A district court may "waive" the adjustment "if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment." *Id.* at subd. 1(b) (2020). The burden is on the obligor to show why a COLA should be waived or reduced. *Bartl v. Bartl*, 497 N.W.2d 295, 301 (Minn. App. 1993). Thus, if an obligor shows an insufficient increase in income, the court "may" order that all or part of the COLA increase not take effect. Minn. Stat. § 518A.75, subd. 1(b). If the obligor fails to show an insufficient increase in income, the COLA "shall" take effect. *Id*. at subd. 3 (2020). District courts have broad discretion over issues of spousal maintenance, and this court will not reverse a decision absent an abuse of discretion. *Grachek v. Grachek*, 750 N.W.2d 328, 330-31 (Minn. App. 2008), *rev. denied* (Minn. Aug. 19, 2008).

Here, the stipulated judgment and decree, in relevant part, states:

> [Husband's] spousal maintenance obligation shall be subject to cost-of-living adjustments in accordance with the provisions of Appendix A attached hereto and incorporated herein.
>
> For purposes of any future motion to modify spousal maintenance based on a substantial change in circumstances, [husband's] retirement at any time after his 65th birthday shall be deemed to be in good faith. Additionally, for purposes of any future motion to modify spousal maintenance based on a reduction in [husband's] income due to retirement or otherwise, it shall be assumed that [husband's] income for purposes of establishing the award of spousal maintenance herein was $650,000 per year gross and that any reduction in his income in the future shall be measured from $650,000 per year gross, even if [husband's] actual income was more than $650,000 per year gross prior to the reduction in his income.

The language of the provision explicitly limits its applications to motions to modify spousal maintenance. Both sentences in the provision with the stipulated income begin with "for purposes of any future motion to modify spousal maintenance." In addition to this explicit limiting language, the substance of the provision also indicates the parties' intent to limit its application to modification proceedings. First, because a party requesting an adjustment need only send notice of the intended adjustment to the obligor, there is no need to file a motion for the adjustment to take effect. *See* Minn. Stat. §518A.75, subd. 2. (2020). Additionally, the provision specifically addresses the statutory criteria for spousal-maintenance modifications, which are not relevant for COLAs. *See* Minn. Stat. § 518A.39, subd. 2 (2020) (providing that a party seeking to modify a spousal-maintenance obligation must demonstrate a "substantial change" has occurred in the parties' circumstances); *see also id.* at subd. 2(a)(1) (2020) (permitting modification upon a showing that the payor's

gross income has substantially decreased). Conversely, there is no language purporting to apply the limiting aspects of this provision to COLAs. If the parties so intended, they could have, and likely would have, included the stipulated income in the preceding paragraph governing COLAs.

Minnesota law is clear that the right to request a COLA is separate and distinct from the right to seek a maintenance modification. *Anderson v. Anderson*, 897 N.W.2d 828, 833 (Minn. App. 2017). Therefore, a "party may request a COLA without seeking to modify the maintenance award and vice versa." *Grachek*, 750 N.W.2d at 331. Because the plain meaning of the parties' language unambiguously limits the provision's application to modification of spousal maintenance, we conclude that the district court misinterpreted and improperly relied on the stipulated judgment and decree. Without adequate findings as to appellant's income, we are unable to conduct a meaningful review as to whether the district court abused its discretion in granting the adjustment. *Merrick v. Merrick*, 440 N.W.2d at 142, 146 (Minn. App. 1989) (holding that appellate review of the record is not substitute for specific district court findings). Accordingly, we remand the case to be decided pursuant to Minn. Stat. § 518A.75 without reliance on the stipulated income of $650,000. On remand, the district court may, in its discretion, reopen the record to receive additional evidence and argument to analyze appellant's income.

Reversed and remanded.